

# **EXHIBIT 1**



## United States Patent and Trademark Office

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# MISFIT

**Word Mark** MISFIT  
**Goods and Services** IC 043. US 100 101. G & S: Coffee shops. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100  
**Standard Characters Claimed**  
**Mark Drawing Code** (4) STANDARD CHARACTER MARK  
**Serial Number** 88981221  
**Filing Date** April 13, 2020  
**Current Basis** 1A  
**Original Filing Basis** 1A;1B  
**Published for Opposition** June 15, 2021  
**Registration Number** 6466477  
**Registration Date** August 31, 2021  
**Owner** (REGISTRANT) **Misfit** Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405  
**Attorney of Record** Todd R. Fronek  
**Type of Mark** SERVICE MARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

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## **EXHIBIT 2**



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<b>Word Mark</b>	<b>MISFIT</b>
<b>Goods and Services</b>	IC 043. US 100 101. G & S: Coffee shops. FIRST USE: 20171100. FIRST USE IN COMMERCE: 20171100
<b>Mark Drawing Code</b>	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
<b>Serial Number</b>	88981222
<b>Filing Date</b>	April 13, 2020
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A;1B
<b>Published for Opposition</b>	June 15, 2021
<b>Registration Number</b>	6466478
<b>Registration Date</b>	August 31, 2021
<b>Owner</b>	(REGISTRANT) <b>Misfit</b> Coffee Company LLC LIMITED LIABILITY COMPANY MINNESOTA 207 Humboldt Ave North Minneapolis MINNESOTA 55405
<b>Attorney of Record</b>	Todd R. Fronek
<b>Description of Mark</b>	Color is not claimed as a feature of the mark. The mark consists of the letters "MIS" located above the letters "FIT". The letters "FIT" are shown upside down and backwards.
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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Dow 30

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Nasdaq

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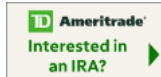
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Tribune Publishing

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# Misfits Collective food hall coming to Apple Valley

**Jess Fleming, Pioneer Press, St. Paul, Minn.**

July 1, 2021 · 2 min read

Jul. 1—Tony Donatell, the king of cool suburban restaurants, is taking his operations to Apple Valley.

The Misfits Collective, opening in the former PR's Sports Bar on Florence Trail, is his biggest venture yet — a food hall of sorts with four concepts under one roof.

Donatell is the guy behind Burgers and Bottles, Volstead House, Mean Miner's Tacos and Farmer's Grandson in Eagan; Bourbon Butcher in Farmington; Whiskey Inferno in Savage; and Tequila Butcher in Chanhassen, most of which occupy formerly unremarkable spaces in strip malls, gas stations and previous Applebee's buildings.

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This concept, he says, was born during the pandemic.

"Basically, this entire brand was inspired by how our team came together during the shutdowns," Donatell said. "It's



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## TRENDING

1. UPDATE 1-U.S. environment agency urged by 21 states to toughen vehicle emissions rewrite
2. Sempra Takes \$1.1 Billion Hit for Worst-Ever U.S. Gas Leak
3. Chile cenbank to decide on roll-out of digital currency in 2022
4. 'Zero Contact' to be first feature film to be distributed using NFTs
5. White House Council of Economic Advisers breaks down a busy week in D.C.

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Curiouser Coffee: A counter-service coffee and coffee cocktail concept that is inspired by Alice in Wonderland. It's from beverage director Ralena Young, and you should expect coffee drinks that use house-made syrups, tinctures, bitters and "flavor profiles you wouldn't see in a normal coffee shop," said marketing director Emily Johnson. There are also breakfast and lunch options — from a breakfast burrito to oatmeal to sandwiches and desserts, including ice cream.

Ratio: A counter-service cocktail bar from Young featuring "perfectly balanced cocktails" and Detroit-style pizza. Also, house-made, wood-fired pizza rolls.

The Wanderer: A walk-up outdoor bar that will feature a rotating, globally inspired menu. Donatell said it's a way for every member of the team, many of whom come from different parts of the globe, to be able to showcase their culture and cuisine. The opening menu is from Mexico, and the bar program will feature cocktails that fit into that niche.

Eighth Fire: A full-service concept inspired by chef Dan Bennett in which plates meant for sharing are cooked over a live open flame. There's everything from pizza and vegetables cooked in embers to whole roasted chickens and lamb shanks and wood-fired desserts like a s'mores quesadilla and a rhubarb strawberry crisp.

Donatell, who has been holding soft-opening dinners for the past few days, said neighborhood reaction has been extremely positive, and the closing of a few higher-end restaurants in the area has really left an opening for this sort of thing.

The concept opens to the public at 6 a.m. July 5.

The Misfits Collective: 14889 Florence Trail, Apple Valley; 952-236-8115; themisfitscollective.co



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Motley Fool

Why Bloom Energy, FuelCell Energy, and Plug Power Stocks Popped Today

Ending the week on a sour note, shares of Bloom Energy (NYSE: BE), FuelCell Energy (NASDAQ: FCEL), and Plug Power (NASDAQ: PLUG) all tumbled lower on Friday. As of 11:48 a.m. EDT, shares of Bloom Energy are...

3h ago

Motley Fool

Why Nio and Nikola Stocks Are Higher Today, but Canoo Is Sinking

Names in the electric vehicle sector sometimes move as a group, but three stocks that are doing their own thing today are Nio (NYSE: NIO), Nikola (NASDAQ: NKLA), and Canoo (NASDAQ: GOEV). As of 11:30 a.m. EDT, Nio...

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Pensioners in Minnesota Snap Up Amazing New Hearing Aid

If you are a resident of Minnesota You no longer have to struggle with hearing loss, thanks to recent developments in hearing technology.

Insider Monkey

Billionaire Ray Dalio is Buying These 10 Stocks

In this article, we reviewed Bridgewater Associates founder Ray Dalio's portfolio adjustment strategies to cope up with the market volatility. We also discussed the top ten stocks billionaire Ray Dalio is buying. You can...

7h ago

MarketWatch

SEC charges two over wash trades in GameStop and other so-called meme stocks

The Securities and Exchange Commission charged two traders with engaging in so-called "wash trading" of meme stocks, including GameStop, Inc. in alleged scheme that netted them hundreds of thousands of dollars...

6h ago

Benzinga

Why Gevo Shares Are Trading Higher Today

Gevo Inc (NASDAQ: GEVO) is trading higher Monday after the company announced that it received a patent from the United States Patent and Trademark Office for a process that encompasses upgrading ethanol and...

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Ad • Better Place Forests

Discover a natural burial alternative near Bloomington

The Star Tribune reveals the fastest-growing alternative to cemeteries in America.

SmartAsset

What Is the Cost Basis of Inherited Stock?

Sometimes an inheritance includes more than a house or an heirloom vase. Investors can choose to pass down to their heirs financial securities like stocks. Determining the value of such a bequest is vital. Without the proper calculations or procedures, ... Continue reading → The post What Is the Cost Basis of Inherited Stock? appeared first on...

https://finance.yahoo.com/news/misfits-collective-food-hall-coming-200500811.html

EXHIBIT 3

4/6

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The Dow Jones rose. Nancy Pelosi made an infrastructure bill move. AMD stock offered a...

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Motley Fool

The Pandemic Crushed These 2 Stocks. They're Bouncing Back Monday

Shares of Carnival were up almost 5%. The gains continued a rally over the past week that has seen the cruise ship giant's stock jump 16% from its close last Tuesday. Carnival's gains picked up steam on Friday, when the...

6h ago

Ad • Stansberry Research

Home Depot billionaire says look out America

Ken Langone, the co-founding billionaire of Home Depot, went on CNBC recently to explain a big problem for Americans and their money.

Barrons.com

Plug Power Stock Is Rising. It's a Bet on a Hydrogen Network.

Citigroup analyst P.J. Juvekar visited Plug Power recently and came away impressed with its plans to expand its hydrogen-gas-making capabilities.

6h ago

Motley Fool

2 of the Best Stocks You Can Buy at a Huge Discount Right Now

The broad stock market might be near an all-time high, but game-changing companies C3.ai and Zillow certainly aren't.

9h ago

Motley Fool

Why Are the Nasdaq's Top Growth Stocks Freaking Out Monday?

The stock market was deeply divided on Monday, with certain sectors doing far better than others. In a relatively unusual development, the Nasdaq Composite (NASDAQINDEX: ^IXIC) found itself on the short end ...

2h ago

Ad • True Market Insiders

Man Who Predicted 2020 Crash Issues Huge Warning

Wall street insider Chris Rowe says, "fortunes will be made, and lost... in what will go down as the greatest stock market event in the last 20 years."

Insider Monkey

Is NVIDIA Corporation (NVDA) A Great Investment Pick?

Harding Loevner, an investment management firm, published its "Global Equity Fund" second-quarter 2021 investor letter – a copy of which can be downloaded here. A return of 10.70% was recorded by the fund for the Q...

5h ago

Benzinga

Why Naked Brand Shares Continue To Rise Today

Naked Brand Group Ltd (NASDAQ: NAKD) is continuing to trade higher

https://finance.yahoo.com/news/misfits-collective-food-hall-coming-200500811.html

EXHIBIT 3

5/6



1d ago

...

Have you seen her?

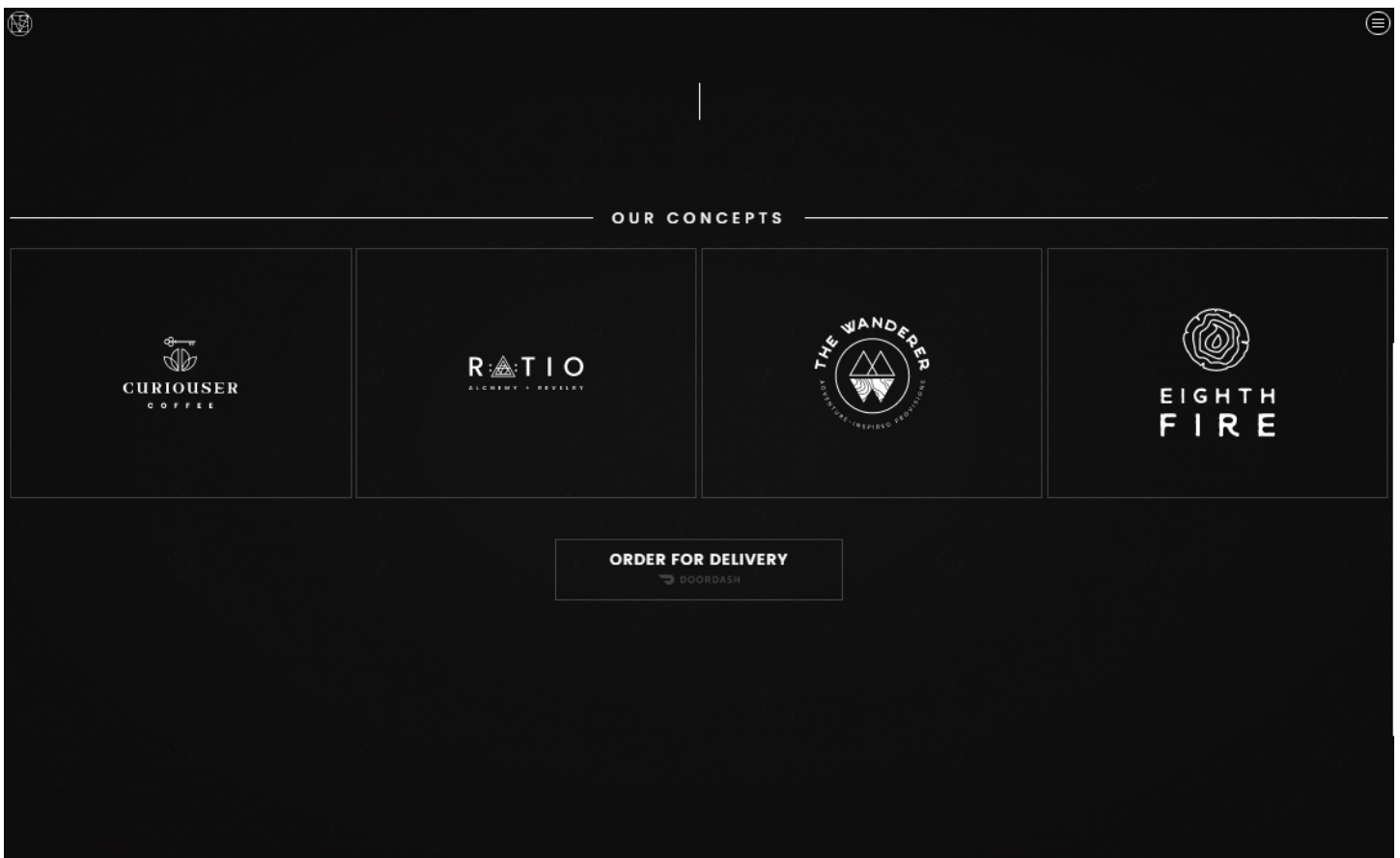
8h ago

Yahoo Finance's Jared Blikre reports on the day's trending tickers.

3h ago

## 6h ago

## **EXHIBIT 4**



OUR STORY

The implication of the saying "Be there or be square" is that if you're not where everyone else is, or doing what everyone else is doing, you're missing out ...

YOU'RE A SQUARE

But what happens when you dare to be square? What happens if you go against the grain? Make a new path? Break some rules? Push some boundaries? Be different? Dare to be square?

**BE A MISFIT.**

**Mis-fit (noun)**  
a person whose behavior or attitude sets them apart from others in an uncomfortably conspicuous way.

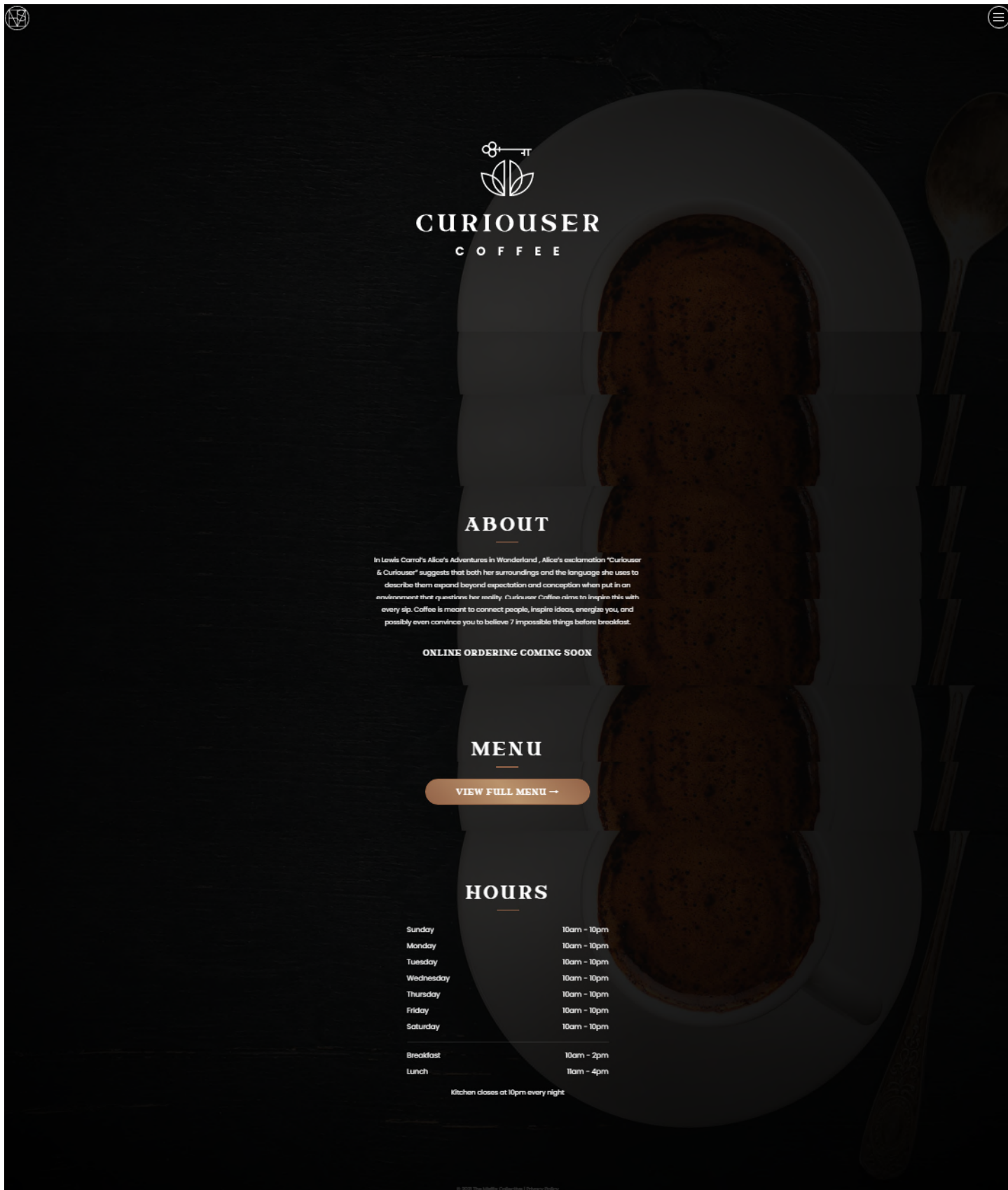
The Misfits Collective challenges convention by putting our team's purposeful individualism on display to create flavors and experiences like never before in an inspiring, multi-concept food hall style setting.

Featuring 4 unique personalities- live-fire fare from [Balth Fire](#), Detroit style square pizza and elaborately balanced craft cocktails from [Ratio](#), caffeinated elixirs and confections from [Curiouser Coffee](#), and [The Wanderer](#) outdoor bar and patio with a regionally rotating menu inspired by adventure and cultural exploration around the world.

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## **EXHIBIT 5**

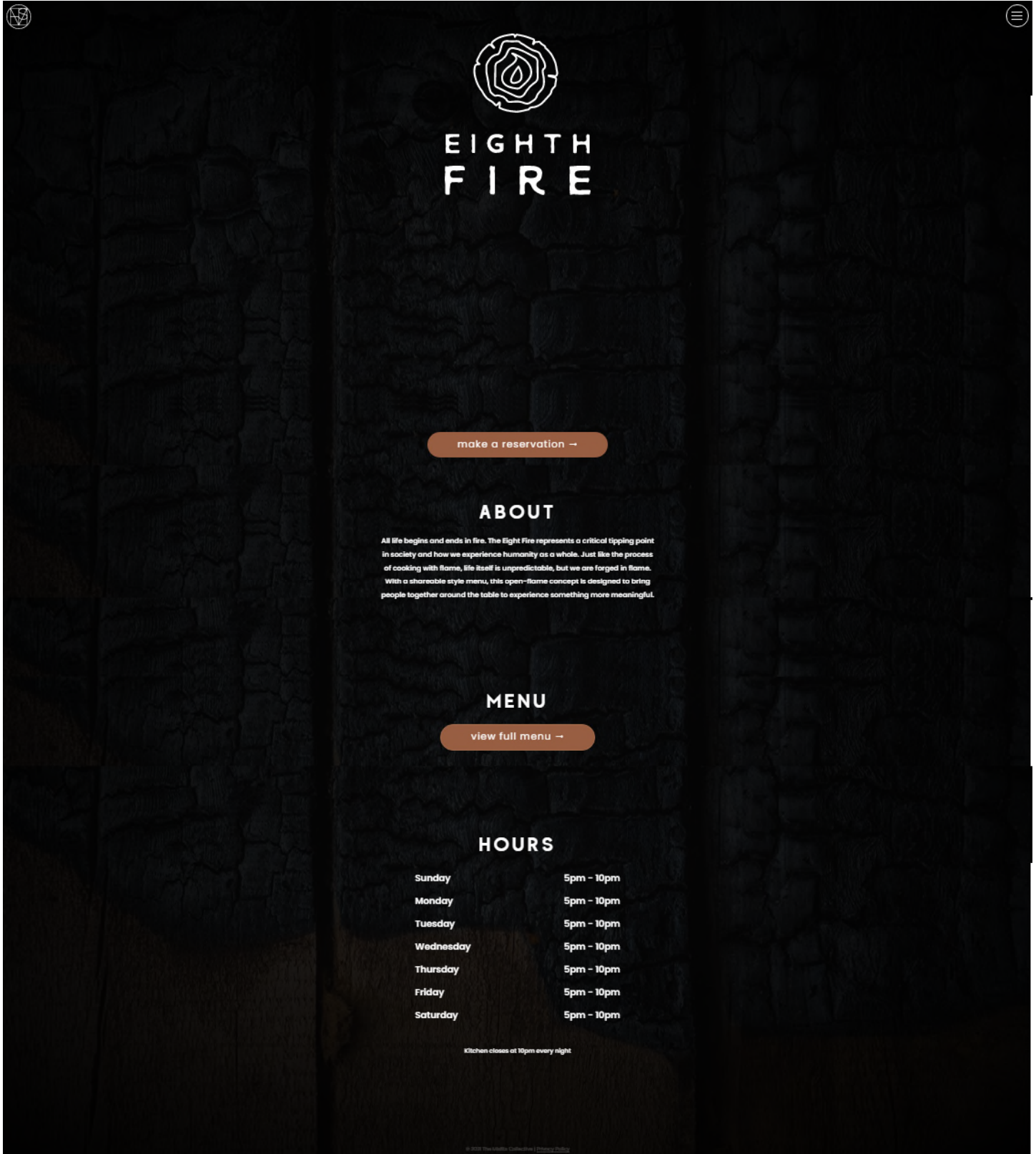












## **EXHIBIT 6**

**Business Record Details »**

Minnesota Business Name  
**The Misfits Collective**

**Business Type**  
Assumed Name

**MN Statute**  
333

**File Number**  
1199625200022

**Home Jurisdiction**  
Minnesota

**Filing Date**  
12/11/2020

**Status**  
Active / In Good Standing

**Renewal Due Date**  
12/31/2021

**Principal Place of Business Address**  
14663 Quebec Place  
Savage, MN 55378  
USA

**Nameholder**

**Nameholder Address**

Rheata Donatell

14663 Quebec Place, Savage, MN 55378

**Filing History****Filing History**

Select the item(s) you would like to order:

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	12/11/2020	Original Filing - Assumed Name (Business Name: The Misfits Collective)	

## **EXHIBIT 7**



**Larkin Hoffman**

8300 Norman Center Drive  
Suite 1000  
Minneapolis, MN 55437-1060

**General:** 952-835-3800  
**Fax:** 952-896-3333  
**Web:** [www.larkinhoffman.com](http://www.larkinhoffman.com)

August 16, 2021

Ms. Rheata Donatell  
The Misfits Collective  
14663 Quebec Place  
Savage, MN 55378

**VIA Certified Mail and email to  
[themisfitscollective@gmail.com](mailto:themisfitscollective@gmail.com)**

Re: Trademark Likelihood of Confusion

Dear Ms. Donatell:

Our firm represents Misfit Coffee Company, LLC ("Misfit Coffee") with respect to legal matters, including intellectual property. Misfit Coffee has asked our firm to assist in reaching out to you with respect to your use of the mark THE MISFITS COLLECTIVE.

Misfit Coffee has been actively using the mark MISFIT since 2015 and has invested a great deal of resources protecting its intellectual property. Misfit Coffee has built a strong reputation through its use of the MISFIT mark in connection with coffee, coffee shops, coffee trucks, food services, kiosk operation and event catering. Throughout its history, Misfit Coffee has provided quality services to its customers as reflected in its MISFIT mark. This dedication to quality has led to a solid reputation within Minnesota and around the country. Furthermore, Misfit Coffee is the owner of U.S. Trademark App. Ser. Nos. 88/870,006; 88/870,013; 88/981,221 and 88/981,222 for its MISFIT mark and logo.

Recently, it has come to our attention that you have been using the mark THE MISFITS COLLECTIVE in connection with restaurant services in Apple Valley, Minnesota. Your collective further includes a coffee shop, which has led to several incidents of actual confusion between our client's MISFIT mark and your use of THE MISFITS COLLECTIVE. These incidents relate to confusion with respect to location, social media references and connections between Misfit Coffee and your collective. Your continued use of the mark THE MISFITS COLLECTIVE will cause further confusion between your collective and the use of the MISFIT mark by Misfit Coffee.

Given the confusion that your collective creates, it is our respectful request that you change the name of your collective and stop any further use of the marks THE MISFITS COLLECTIVE, MISFIT and any other confusingly similar marks in connection with food, coffee or restaurant services. Furthermore, it is respectfully requested you permanently change the URL for your collective and stop using the URL [www.themisfitscollective.co](http://www.themisfitscollective.co).



Ms. Rheata Donatell  
August 16, 2021  
Page 2

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Please advise the undersigned, in writing, by August 31, 2021, that you will comply with the above demands.

We appreciate your prompt compliance with the requests above. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd R. Fronek", with a stylized flourish at the end.

Todd R. Fronek, for  
Larkin Hoffman

Direct Dial: 952-896-3295  
Direct Fax: 952-842-1715  
Email: [tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)

4836-0621-3622, v. 1

## **EXHIBIT 8**



Writer's Email: jclancy@quinlivan.com

Writer's Direct Dial: (320) 258-7857

**VIA CERTIFIED MAIL AND EMAIL**

August 26, 2021

Larkin Hoffman  
Attn: Todd R. Fronek  
8300 Norman Ctr. Dr., Ste. 1000  
Minneapolis, MN 55437-1060

RE: Trademark Likelihood of Confusion  
Our File #226391.26391

Dear Mr. Hoffman:

Our firm represents Ms. Rheata Donatell on all business related matters. This letter confirms receipt of your correspondence regarding The Misfits Collective claimed trademark infringement noting the likelihood of confusion dated August 16, 2021. Be advised that the assumed name filing with the Minnesota Secretary of State identifying my client as the nameholder of The Misfits Collective was made in error.

The appropriate nameholder of The Misfits Collective is Tony Donatell. I have reached out to Mr. Donatell's attorney to address the error and remove my client from this dispute. Mr. Donatell agreed to an assignment and amendment of The Misfits Collective assumed name. This assignment and amendment is made in an effort to correct the filing error.

To that end, I can provide you and your client with an executed assignment and assumption agreement and amendment to assumed name confirming Mr. Donatell as the true nameholder of The Misfits Collective. I am advised by Mr. Donatell's attorney that you are in contact with him to resolve the matter. With that said, I respectfully request that your client release my client from any and all claims regarding this matter as the filing was made in error and the matter should be addressed with Mr. Donatell and his attorney.

We appreciate your prompt attention to this matter. If you have any questions or would like to discuss, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JPC', is written over a blue rectangular line.

Jeffrey P. Clancy  
Attorney at Law  
JPC/dtq/1540777

**EXHIBIT 8**

## **EXHIBIT 9**

**Business Record Details »**

Minnesota Business Name  
**The Misfits Collective**

**Business Type**  
Assumed Name

**MN Statute**  
333

**File Number**  
1199625200022

**Home Jurisdiction**  
Minnesota

**Filing Date**  
12/11/2020

**Status**  
Active / In Good Standing

**Renewal Due Date**  
12/31/2021

**Principal Place of Business Address**  
1286 Lone Oak Rd  
Eagan, MN 55121  
USA

**Nameholder**

**Nameholder Address**

Tony Donatell

1286 Lone Oak Rd, Eagan, MN 55121

**Filing History****Filing History**

Select the item(s) you would like to order:

<input type="checkbox"/>	Filing Date	Filing	Effective Date
<input type="checkbox"/>	12/11/2020	Original Filing - Assumed Name (Business Name: The Misfits Collective)	
<input type="checkbox"/>	9/16/2021	Amendment - Assumed Name	

**EXHIBIT 9**

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## EXHIBIT 9

## **EXHIBIT 10**

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**From:** Thomas Phung <tom@mnpatentlaw.com>  
**Sent:** Tuesday, September 7, 2021 11:48 AM  
**To:** Fronek, Todd R. <tfronek@larkinhoffman.com>  
**Subject:** RE: The Misfits Collective

**This Message Is External to Larkin Hoffman.**

---

Hi Todd,

I will forward your email to Tony Donatell. Fyi, he is currently looking for a second opinion so i am not sure exactly what he wants to do.

Tom

Thomas N. Phung  
Intellectual Property Attorneys  
JOHNSON & PHUNG, LLC  
Suite 285  
One West Water Street  
Saint Paul, Minnesota 55107-2080

**Direct email:** [tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)

Phone: (651) 222-3775

Fax: (651) 222-3776

[www.mnpatentlaw.com](http://www.mnpatentlaw.com)

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---- On Tue, 07 Sep 2021 08:09:58 -0500 **Fronek, Todd R.** <[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)> wrote ----

Hi Tom,

We have yet to receive any form of proposal for you pertaining to The Misfits Collective ceasing use of my client's MISFIT mark in connection with restaurant services. As you may know, the USPTO has issued Reg. Nos. 6,466,477 and 6,466,478 for my client's MISFIT marks. Attached are copies of the registrations for your reference.



We will provide you until September 10 to provide assurance that your client will cease using the mark immediately. Otherwise, we will have to pursue further legal action. Please do not hesitate to contact me with any questions.

Regards,  
Todd

**Todd R. Fronek**

**Shareholder**

direct | 952-896-3295

fax | 952-842-1715

8300 Norman Center Drive

Suite 1000

Minneapolis, MN 55437-1060

[www.larkinhoffman.com](http://www.larkinhoffman.com)

---

**From:** Thomas Phung <[tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)>

**Sent:** Thursday, August 26, 2021 3:47 PM

**To:** Fronek, Todd R. <[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)>

**Subject:** RE: The Misfits Collective

**This Message Is External to Larkin Hoffman.**

---

Great, chat with you then Todd.

Thank you,

Tom

Thomas N. Phung

Intellectual Property Attorneys

JOHNSON & PHUNG, LLC

Suite 285

One West Water Street

Saint Paul, Minnesota 55107-2080

**Direct email:** [tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)

Phone: (651) 222-3775

Fax: (651) 222-3776

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----- On Thu, 26 Aug 2021 15:44:56 -0500 **Fronek, Todd R.**  
<[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)> wrote -----

Yes, that would be great. My information is below.

**Todd R. Fronek**

**Shareholder**

direct | 952-896-3295

fax | 952-842-1715

8300 Norman Center Drive

Suite 1000

Minneapolis, MN 55437-1060

[www.larkinhoffman.com](http://www.larkinhoffman.com)

---

**From:** Thomas Phung <[tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)>

**Sent:** Thursday, August 26, 2021 3:38 PM

**To:** Fronek, Todd R. <[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)>

**Subject:** RE: The Misfits Collective

**This Message Is External to Larkin Hoffman.**

---

2pm is good for me. Do you want me to call you?

Thomas N. Phung

Intellectual Property Attorneys

JOHNSON & PHUNG, LLC

Suite 285

One West Water Street

Saint Paul, Minnesota 55107-2080

**Direct email:** [tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)

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---- On Thu, 26 Aug 2021 15:37:25 -0500 **Fronek, Todd R.**

<[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)> wrote ----

How about 2pm?

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**From:** Thomas Phung <[tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)>

**Sent:** Thursday, August 26, 2021 3:24 PM

**To:** Fronek, Todd R. <[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)>

**Subject:** RE: The Misfits Collective

**This Message Is External to Larkin Hoffman.**

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Hi Todd,

Monday should work for me. What time would work best for you?

Tom

Thomas N. Phung  
Intellectual Property Attorneys  
JOHNSON & PHUNG, LLC  
Suite 285  
One West Water Street  
Saint Paul, Minnesota 55107-2080

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---- On Thu, 26 Aug 2021 15:16:43 -0500 **Fronek, Todd R.**  
<[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)> wrote ----

Hi Tom,

I hope you are doing well. Are you available on Monday?

Let me know.

Regards,  
Todd

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**From:** Thomas Phung <[tom@mnpatentlaw.com](mailto:tom@mnpatentlaw.com)>

**Sent:** Thursday, August 26, 2021 12:24 PM

**To:** Fronek, Todd R.

<[tfronek@larkinhoffman.com](mailto:tfronek@larkinhoffman.com)>

**Subject:** RE: The Misfits Collective

**This Message Is External to Larkin Hoffman.**

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Hi Todd,

Tom Phung from Law school. Tony Donatell of the The Misfits Collective has asked me to review your August 16, 2021 letter to The Misfits Collective and reach out to you to discuss this matter further.

Please let me know if you have any time in the next week or so to discuss.

Thank you,

Tom

Thomas N. Phung  
Intellectual Property Attorneys  
JOHNSON & PHUNG, LLC  
Suite 285  
One West Water Street  
Saint Paul, Minnesota 55107-2080

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